

EQUAL=PAY

A Guide to Women's Equal Pay Rights



EQUAL PAY IS A FAMILY ISSUE.

Women make up nearly half of the U.S. labor force and are a growing number of breadwinners in their families.

More women are also working in positions and fields that have been traditionally occupied by men. When women are not paid fairly, not only do they suffer, but so do their families.

While progress has been made, the pay gap affects all women and is larger among minority women and women with disabilities. Over the course of her lifetime, this pay gap will cost a woman and her family lost wages, reduced pensions and diminished Social Security benefits.

This guide is designed to help working women understand their rights under certain laws that govern equal pay and compensation.

KNOW YOUR RIGHTS

Women are legally entitled to equal employment opportunities, including the right to earn a paycheck that is free from unlawful bias, and, in many cases, the right to discuss their pay with colleagues.

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What are my equal pay and compensation rights under federal law?

➤ ***Men and women must be paid equal wages if they perform substantially the same work under the Equal Pay Act.*** “Equal pay” refers to more than just your paycheck. Under this law, all employers must provide employees

within the same establishment whose jobs require substantially equal skill, effort and responsibility, and are performed under similar working conditions “equal pay,” including: an equal salary, overtime pay, bonuses, stock options, profit sharing and bonus plans, life



WOMEN'S BUREAU
U.S. DEPARTMENT OF LABOR

insurance, vacation and holiday pay, cleaning or gasoline allowances, hotel accommodations, reimbursement for travel expenses and benefits. Unequal compensation cannot be justified unless the employer shows that the pay differential is based on a fair seniority, merit or incentive system, or a factor other than sex.

- ***Your employer cannot discriminate against you on the basis of your race, color, religion, sex or national origin in any terms or conditions of your employment, including compensation, hours and benefits.***

Under Title VII of the Civil Rights Act of 1964, an employer with at least 15 workers is prohibited from sex discrimination in the setting and paying of wages for the same or similar work. In addition to prohibiting different pay for men and women doing the same or similar job, Title VII prohibits the pay discrimination that results from unfairly denying women promotions and other forms of discrimination that can impact pay.

- Both the Equal Pay Act and Title VII are enforced by the U.S. Equal Employment Opportunity Commission (EEOC). Many states and cities have similar fair employment practices agencies that prohibit employment discrimination. Some of these laws cover employers with fewer than 15 employees.

- ***If you have received an unfair paycheck within the last 180 days, you can file a discrimination charge with the EEOC.*** The Lilly Ledbetter Fair Pay Act of 2009 clarified that each paycheck providing discriminatory compensation is a basis to make a claim under Title VII, regardless of when the discrimination began. Under the Lilly Ledbetter Fair Pay Act of 2009, you have up to 180 days (300 days in some states,

counties and cities) after the *most recent* paycheck that reflects unequal wages to file a charge with the EEOC.

- ***If you work for a federal contractor, Executive Order (EO) 11246 prohibits your employer from discriminating in employment decisions, including compensation, on the basis of race, color, religion, sex or national origin.***

If you work for a federal contractor or subcontractor and think you are being paid less than men who are similar to you (for example, they do similar work or have similar skills), or that an employment practice negatively affects your compensation based on your gender, you can contact the Office of Federal Contract Compliance Programs (OFCCP) in the U.S. Department of Labor for guidance or assistance. Such discriminatory pay is prohibited by EO 11246. This EO applies to a federal contractor, federally-assisted construction contractor, or a federal subcontractor with federal government contracts or subcontracts exceeding \$10,000.



“Most private sector employees have the right to join together, with or without a union, to improve their wages and working conditions under the National Labor Relations Act.”

- ***Most private sector employees have the right to join together, with or without a union, to improve their wages and working conditions under the National Labor Relations Act (NLRA).*** Section 7 of the NLRA protects non-supervisory employees, who are covered by the Act, from employer retaliation when they discuss their wages or working

conditions with their colleagues as part of an effort to improve them, even if there is no union or other formal organization involved in the effort. These employee rights are enforced by the National Labor Relations Board (NLRB).

- If you believe your rights under the NLRA have been violated, or that an employer or a union has engaged in unlawful conduct, you may file a charge through one of NLRB's regional offices.



What can you do if you think you're experiencing compensation discrimination?

If you think you might be experiencing pay discrimination on the basis of your sex, you should:

1. Try to resolve the situation informally, such as meeting with your supervisor to discuss your concern.

If your supervisor is the person that you believe is responsible for the discrimination or if he or she is unable to assist you, try contacting a human resources staff person or whomever is designated in your employee handbook to address workplace issues. Review your employee handbook's policies on discrimination to understand your company's preferred approach to complaints of discrimination. If you are a member of a union, consult your union representative. You may also consider more formal steps to resolve the situation, such as filing a discrimination charge.

2. Educate yourself about your rights:

- Visit the website of the Equal Employment Opportunity Commission (EEOC). The EEOC enforces the Equal Pay Act and Title VII of the Civil Rights Act of 1964. You can learn about your rights and find out how and when to file a charge of discrimination with the EEOC. For federal sector employment, you also can refer to your agency's federal sector complaint procedures.
- Be aware of the timeframe for filing a charge with the EEOC. The **Lilly Ledbetter Fair Pay Act of 2009** clarifies the time a complainant has to file a charge of compensation discrimination for purposes of Title VII. Under Title VII, a complainant has up to 180 days (or 300 days, depending on the state, county and city) after the employer's most recent discriminatory action to file a charge with the EEOC. The Ledbetter Act states that there is *a new discriminatory action each time an employer writes a paycheck that reflects unequal wages*.
- If you work for a federal contractor, visit the website of the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) to learn

more about your rights under Executive Order 11246.

- If you are concerned about employer policies that prevent you from discussing pay, or if you have experienced retaliation for talking about pay, visit the website of the National Labor Relations Board to learn more about your rights under the National Labor Relations Act.

3. Ensure that you keep accurate records.

If you decide to file a charge or complaint with one of the agencies mentioned above, you will need to be able to relay the facts as clearly as possible. Keep copies of any documents related to the employment discrimination, such as your pay stubs, emails, memoranda, letters, performance evaluations, and disciplinary actions.

- Think about whether there are any witnesses to the discrimination you experienced.
- Keep notes if necessary to help you remember key dates or conversations.
- Keep copies of all of these documents in a safe place.

4. Check with your state or local agency that administers state or local anti-discrimination laws.

Some states, counties and cities have laws that provide greater protections than those offered under federal law.

5. Obtain legal assistance, if necessary.

- This could be your union representative or an attorney practicing employment or discrimination law. If you need an attorney referral, or think you cannot afford an attorney, you can contact your state's Bar Association for assistance in locating an attorney who practices employment and/or discrimination law. Some bar associations can refer you to free (*pro bono*) legal services, and some law schools have programs through which law students provide free or reduced cost legal services as part of their training.



ASK FOR HELP

The previous examples and suggestions are only a starting point. You can obtain further assistance from the resources listed on the last page.

WHERE TO GO FOR HELP

U.S. Department of Labor

Phone: 1-866-4-USA-DOL

(TTY: 1-877-889-5627)

Web site: www.dol.gov

Women's Bureau

Phone: 1-800-827-5335

Web site: www.dol.gov/wb

Office of Federal Contract Compliance Programs

Phone: 1-800-397-6251

(TTY: 1-877-889-5627)

Web site: www.dol.gov/ofccp

Civil Rights Center

Phone: 202-693-6500

(TTY: 202-693-6516)

Web site: www.dol.gov/oasam/programs/crc

U.S. Equal Employment Opportunity Commission

Phone: 1-800-669-4000

(TTY: 1-800-669-6820)

Web site: www.eeoc.gov

National Labor Relations Board

Phone: 1-866-667-6572

(TTY: 1-866-315-6572)

Web site: www.nlrb.gov